

Steven Sprinkle appeals his sentence for theft as a class D felony.¹ Sprinkle raises one issue, which we revise and restate as:

- I. Whether the trial court abused its discretion in sentencing Sprinkle;
and
- II. Whether Sprinkle's sentence is inappropriate in light of the nature of the offense and the character of the offender.

We affirm.

The relevant facts follow. On August 25, 2007, Sprinkle went to a Meijer store in Allen County and stole beer and liquor with the intention of selling or trading the stolen items for cocaine. Sprinkle had previously been arrested for criminal conversion and theft at Meijer and had been banned from Meijer locations in Allen County.

The State charged Sprinkle with Count I, theft as a class D felony, and Count II, criminal trespass as a class A misdemeanor.² Sprinkle pleaded guilty as charged and entered a "Drug Court Participation Agreement,"³ in which the State agreed to dismiss the case if Sprinkle complied with the terms of the agreement. Appellant's Appendix at 24. The trial court revoked the agreement when Sprinkle violated the agreement's terms. The trial court found Sprinkle's guilty plea, acceptance of responsibility, and remorse as mitigating circumstances. The trial court found Sprinkle's criminal history and failed

¹ Ind. Code § 35-43-4-2 (2004).

² Ind. Code § 35-43-2-2 (2004).

³ The record does not contain a copy of this agreement.

efforts at rehabilitation as aggravating circumstances. The trial court found that the aggravators outweighed the mitigators and sentenced Sprinkle to two years for Count I, theft as a class D felony, and one year for Count II, criminal trespass as a class A misdemeanor. The trial court ordered that the sentences be served concurrently.

I.

The first issue is whether the trial court abused its discretion in sentencing Sprinkle. We note that Sprinkle's offense was committed after the April 25, 2005, revisions of the sentencing scheme.⁴ In clarifying these revisions, the Indiana Supreme Court has held that "the trial court must enter a statement including reasonably detailed reasons or circumstances for imposing a particular sentence." Anglemyer v. State, 868 N.E.2d 482, 490 (Ind. 2007), clarified on reh'g, 875 N.E.2d 218 (Ind. 2007). We review the sentence for an abuse of discretion. Id. An abuse of discretion occurs if "the decision is clearly against the logic and effect of the facts and circumstances." Id.

A trial court abuses its discretion if it: (1) fails "to enter a sentencing statement at all;" (2) enters "a sentencing statement that explains reasons for imposing a sentence – including a finding of aggravating and mitigating factors if any – but the record does not support the reasons;" (3) enters a sentencing statement that "omits reasons that are clearly supported by the record and advanced for consideration;" or (4) considers reasons that

⁴ Indiana's sentencing scheme was amended effective April 25, 2005, to incorporate advisory sentences rather than presumptive sentences. See Ind. Code § 35-50-2-7 (Supp. 2005).

“are improper as a matter of law.” Id. at 490-491. If the trial court has abused its discretion, we will remand for resentencing “if we cannot say with confidence that the trial court would have imposed the same sentence had it properly considered reasons that enjoy support in the record.” Id. at 491. However, under the new statutory scheme, the relative weight or value assignable to reasons properly found, or those that should have been found, is not subject to review for abuse of discretion. Id.

Sprinkle argues, in part, that the trial court “did not adequately weigh the mitigating factors of his remorse” and “his acceptance of responsibility.” Appellant’s Brief at 8. Sprinkle essentially argues that the trial court failed to give the mitigators proper weight. Pursuant to Anglemyer, the relative weight or value assignable to reasons properly found is not subject to our review for abuse of discretion. Consequently, we cannot review Sprinkle’s argument.⁵ See, e.g., Anglemyer, 868 N.E.2d at 491.

II.

The next issue is whether Sprinkle’s sentence is inappropriate in light of the nature of the offense and the character of the offender. Ind. Appellate Rule 7(B) provides that we “may revise a sentence authorized by statute if, after due consideration of the trial

⁵ Sprinkle also argues that the trial court “did not adequately weigh the mitigating factors of his . . . strong desire to maintain employment to pay child support and his request for substance abuse treatment.” Appellant’s Brief at 8. The trial court did not find Sprinkle’s desire to maintain employment or his request for substance abuse treatment as mitigators. To the extent that Sprinkle is attempting to argue that the trial court overlooked these proposed mitigators, Sprinkle does not cite to the record or develop this argument. Thus, Sprinkle has waived this argument. See Ind. App. R. 46(A)(8)(a); see also Jackson v. State, 735 N.E.2d 1146, 1154 (Ind. 2000) (holding that the defendant waived his argument by failing to cite to authority or develop the argument).

court's decision, [we find] that the sentence is inappropriate in light of the nature of the offense and the character of the offender." Under this rule, the burden is on the defendant to persuade the appellate court that his or her sentence is inappropriate. Childress v. State, 848 N.E.2d 1073, 1080 (Ind. 2006). Sprinkle argues that his sentence should be revised "to provide for the first six months of his sentence to be executed with the remaining one and a half years to be suspended." Appellant's Brief at 9-10.

Our review of the nature of the offense reveals that Sprinkle went to a Meijer store and stole beer and liquor with the intention of selling or trading the stolen items for cocaine. Sprinkle had previously been arrested for criminal conversion and theft at Meijer and had been banned from Meijer locations in Allen County.

Our review of the character of the offender reveals that Sprinkle pleaded guilty and entered a "Drug Court Participation Agreement." Appellant's Appendix at 24. However, the trial court revoked the agreement when Sprinkle violated the agreement's terms. Sprinkle has an extensive criminal history, which includes four felony convictions and nine misdemeanor convictions. Sprinkle has a history of violating community based corrections programs and has had his probation revoked twice.

After due consideration of the trial court's decision, we cannot say that the two-year sentence imposed by the trial court is inappropriate in light of the nature of the offense and the character of the offender. See, e.g., Shouse v. State, 849 N.E.2d 650, 660

(Ind. Ct. App. 2006) (holding that the defendant's sentence for auto theft and two counts of resisting law enforcement was not inappropriate given his extensive criminal history), trans. denied.

For the foregoing reasons, we affirm Sprinkle's sentence for theft as a class D felony.

Affirmed.

NAJAM, J. and DARDEN, J. concur